

## **NOTICE OF PROPOSED RULEMAKING**

[Notice published March 13, 2015]

### **TITLE 22. SOCIAL SECURITY DIVISION 9. PREHOSPITAL EMERGENCY MEDICAL SERVICES CHAPTER 13: EMS SYSTEM REGULATIONS APPEAL PROCEEDINGS TO THE COMMISSION**

The Emergency Medical Services Authority (EMSA) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### **PUBLIC HEARING**

EMSA will conduct a public hearing on **April 27, 2015**. The hearing will begin at **2:00 pm and end at 4:00 pm**. The hearing will be held at EMSA Headquarters located at 10901 Gold Center Drive, Suite 400, Rancho Cordova, CA 95670. EMSA requests that persons making oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action, to EMSA. Comments may also be submitted by facsimile (FAX) at (915) 324-2875 or by e-mail to [teri.harness@emsa.ca.gov](mailto:teri.harness@emsa.ca.gov). The written comment period closes at **4:00 p.m. on April 27, 2015**. EMSA will only consider comments received at EMSA Headquarters by that time. Submit comments to:

Teri Harness, Assistant Division Chief  
EMS Systems Division  
EMS Authority  
10901 Gold Center Drive, Suite 400  
Rancho Cordova, CA 95670

#### **AUTHORITY AND REFERENCE**

The Health and Safety Code (H&SC), Section 1797.107 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, and make specific Section 1797.105(c) and (d) of the H&SC.

#### **INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW**

Existing law requires EMSA to review emergency medical services (EMS) plans received from local EMS agencies (LEMSAs). EMSA is required to either approve or

disapprove the plan based on whether the plan meets specific requirements. LEMSAs are permitted to appeal an EMSA determination to the EMS Commission.

The regulations proposed in this rulemaking action would establish the appeal procedures to the EMS Commission. All appeal hearings to the Commission would be conducted through the Administrative Procedure Act. An administrative law judge (ALJ), within the Office of Administrative Hearings (OAH), would evaluate evidence submitted by EMSA and the LEMSA. The ALJ would provide a recommendation to the Commission to either sustain the determination of EMSA, or overrule the determination of EMSA. The Commission would then vote on the proposed decision at the next regularly scheduled Commission meeting. The Commission's vote on the proposed decision would be limited to either adopt or not adopt the ALJ's proposed decision, or return the proposed decision to the OAH for re-hearing if the proposed decision is inconsistent with the regulations or statute.

*Anticipated Benefits of the Proposed Regulation:*

Adoption of the regulations will avoid serious harm to the public peace, health, safety and general welfare by adopting an appeal process for LEMSAs when an EMS plan is disapproved. In addition, the regulations will allow three (3) pending appeals to advance forward and ensure due process to the LEMSAs under state law.

*Determination of Inconsistency/Incompatibility with Existing State Regulations:*

EMSA has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, EMSA has concluded that these regulations will not cause inconsistency or incompatibility with other existing regulations that concern EMS plan appeals.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

EMSA has made the following initial determinations:

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None
- Cost impacts on a representative private person or business: EMSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None
- Significant effect on housing costs: None
- The proposed regulations will not affect small business because the establishment of the appeal process only applies to the 33 LEMSAs within California. The regulations have no significance to small businesses.

### Results of the Economic Impact Analysis

EMSA concludes that it is (1) unlikely that the regulations will eliminate any jobs for ambulance providers; (2) possible that the regulations will create an unknown number of jobs for ambulance providers; (3) likely that the proposal will create an unknown number of new private ambulance companies providing ambulance services; (4) unlikely that the proposal will eliminate any existing businesses; (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing businesses within the State; and (6) benefit California residents by providing this means of resolution between EMSA and LEMSAs concerning emergency medical services plans which would ultimately lead to protection of the public peace, health, safety, and general welfare.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), EMSA must determine that no reasonable alternative considered, or otherwise identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

EMSA invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Teri Harness, Assistant Division Chief  
EMS Systems Division  
EMS Authority  
10901 Gold Center Drive, Suite 400

Rancho Cordova, CA 95670  
(916) 431-3708  
[teri.harness@emsa.ca.gov](mailto:teri.harness@emsa.ca.gov)

The backup contact person for these inquiries is:

Kathy Bissell, Manager  
EMS Systems Division  
EMS Authority  
10901 Gold Center Drive, Suite 400  
Rancho Cordova, CA 95670  
(916) 431-3687  
[Kathy.bissell-benabides@emsa.ca.gov](mailto:Kathy.bissell-benabides@emsa.ca.gov)

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons (ISORS), the modified text of the regulations, if any, or other information upon which the rulemaking is based, to Teri Harness at the above address.

#### **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

EMSA will have the entire rulemaking file available for inspection and copy throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the ISORS. Copies may be obtained by contacting Teri Harness at the address or phone number listed above.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After conducting the public hearing and considering all timely and relevant comments received, EMSA may adopt the proposed regulations substantially as described in this notice. If EMSA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before EMSA adopts the regulation as revised. Please send requests for copies of any modified regulations to the attention of Teri Harness at the address indicated on the previous page. EMSA will accept written comments on any modified regulations for 15 days after the date on which they were made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Teri Harness at the address provided on the previous page.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the ISORS, and the text of the regulations in underline and strikeout may be accessed through EMSAs website at [www.emsa.ca.gov](http://www.emsa.ca.gov).